

REMARKS

All previously pending claims were rejected in the Office Action dated October 22, 2003. As authorized by 37 C.F.R. § 1.116, claims 1 and 6 have been amended in order to present the claims in a better form for consideration on appeal. Claims 10-11, 13-20, 31-33, and 36 have been canceled.

On May 4, 2004, Applicants' representatives had a telephone interview with the Examiner and the Examiner's supervisor. During this interview, the parties discussed claim 1, its rejection under §103 in the Office Action dated March 16, 2004 by a combination of US Patent 6,418,415 (Walker) and the 2nd Restatement of Contracts (the Restatement), and the differences between claim 1 and the cited references. In addition, in connection with Walker, Applicants' representatives provided Examiners with an excerpt from a Priceline 10-K document contemporaneous with the filing of the present patent application as evidence that Priceline in fact used a different mechanism than the claimed invention. Agreement was not reached regarding these issues, leading to the filing of a Notice of Appeal by Applicants on September 15, 2004.

Respectfully submitted,
Tom Van Horn *et al.*

Dated: 11/5/04

By: Colleen V. Chien
Colleen V. Chien, Reg. No. 55,062
Attorney for Appellants
Fenwick & West LLP
Silicon Valley Center
801 California Street
Mountain View, CA 94041
Tel.: (415) 875-2319
Fax: (415) 281-1350